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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,690	04/13/2004	Valentine Hechler IV	740944-21	2927
22204	7590	04/13/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			LEUNG, PHILIP H	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,690	Applicant(s) HECHLER, VALENTINE	
	Examiner Philip H Leung	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The drawings filed 4-13-2004 and 8-6-2004 are objected to by the Draftsperson for the reasons set forth in the enclosed PTO-Form 948.
2. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
4. Claim 14 is objected to by the Examiner as the term "said tabs" has no proper antecedent basis. Correction is needed.
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-6, 12-14, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda et al (US 4,112,833), in view of Kubiadowicz (US 4,214,515).

Oda shows "a microwavable cooking apparatus for cooking bacon and the like, comprising a container 13 having at least one container sidewall, an inner and outer surface, an open end, and a laterally projecting rim at the open end defining a rim undersurface; a lid 70 including a body having a top wall dimensioned to extend across and close the open end of said container" (see Figures 1, 4 and 6 and col. 2, line 56 - col. 4, line 45 and col. 5, lines 37-57). It uses a shell 15 dimensioned to fit within the container 13 for suspending bacon strips instead of a cooking rack consisting of a plurality of radially extending vanes as claimed. Kubiadowicz shows a microwave cooking device for cooking bacon strips comprising a container 44 and a plurality of radially extending support portions 48 (see Figures 6-8 and col. 4, lines 1-56). It would have been obvious to an ordinary skill in the art to modify Oda to use a plurality of radially extending vanes for hanging bacon strips to increase number of bacon strips at the same time and to retain more splattering grease between the support portions for a better cooking result. In regard to claims 5 and 6, Oda shows the use of a handle 50 on the outside container 33 (Figure 4). The exact shape of the cover and the handle would have been a matter of engineering design variation as L-shaped handles and domed shaped covers for cookers are well known.

7. Claims 7-11, 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda et al (US 4,112,833), in view of Kubiadowicz (US 4,214,515), as applied to claims 1-6, 12-14, 31 and 33 above, and further in view of Sarnoff et al (US 5,310,981) or Saxton (US 2,565,269).

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Oda combined with Kubiadowicz shows a microwave cooking apparatus for cooking bacon by suspending strips on radially extending vanes within a microwave permeable container except for the use of a plurality of locks for locking the lid to the container. Sarnoff or Saxton shows that it is well known in the art of food containers to use a plurality of locks for sealing the container lid (see Sarnoff, Figures 1-3 and col. 5, lines 6-26 and Saxton, Figures 1-6 1 and col. 2, line 7 – col. 3, line 65). It would have been obvious to an ordinary skill in the art to modify Oda combined with Kubiadowicz to use a plurality of locking device for releasably closing the food container to avoid spillage, in view of the teaching of Sarnoff or Saxton. The exact structure of the locks would have been a mere engineering design variation of the ones shown by Sarnoff or Saxton once it is taught to use levers and cams by Saxton.

8. Claims 32, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oda et al (US 4,112,833), in view of Kubiadowicz (US 4,214,515), as applied to claims 1-6, 12-14, 31 and 33 above, and further in view of Freedman et al (US 4,398,077) or Derby (US 4,495,392).

Oda combined with Kubiadowicz shows a microwave cooking method for cooking bacon by suspending strips on radially extending vanes within a microwave permeable container except for a microwave reflecting surface embedded within the side or the bottom of the container. Freedman et al or Derby shows that it is well known in the art of microwave cookers to use a microwave reflective layers on the inside surface of the cooking containers to control the amount of microwave heating on the food inside the container (see Freedman et al, Figures 1-5 and col. 3, lines 35-40 and col. 6, line 37 - col. 7, line 10 and Derby, Figure 1 and col. 2, lines 20-44). It would have been obvious to an ordinary skill in the art to modify Oda combined with Kubiadowicz to use a microwave reflecting layer on the inside surface of the container to control the amount of heating for a better cooking result in view of the teaching of Freedman or Derby.

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9. Claim 32 is further rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler, IV (US 6,211,502), in view of Freedman et al (US 4,398,077) or Derby (US 4,495,392).

Hechler, IV shows a microwave cooking method for cooking bacon by suspending strips of bacon on rods or arms spaced from the bottom of an enclosed container except for a microwave reflecting surface embedded within the sides of the container. More specifically, Hechler, IV shows a microwave cooker for cooking bacon having a container 14 with a lid 12 and laterally projecting rim 22 and a rack 62 with spaced arms 66 for suspending strips of bacon spaced from the bottom 16 of the enclosed container 14 (see Figures 1-4 and col. 2, line 43 - col. 5, line 39). Freedman et al or Derby shows that it is well known in the art of microwave cookers to use a microwave reflective layers on the inside surface of the cooking containers to control the amount of microwave heating on the food inside the container (see Freedman, Figures 1-5 and col. 3, lines 35-40 and col. 6, line 37 - col. 7, line 10 and Derby, Figure 1 and col. 2, lines 20-44). It would have been obvious to an ordinary skill in the art to modify Hechler, IV to use a microwave reflecting layer on the inside surface of the container to control the amount of heating for a better cooking result in view of the teaching of Freedman or Derby.

Note: upon reviewing the two provisional applications, it is determined that claims 15-30 which include an outer container and an inner container and claim 32 which includes a microwave reflecting surface embedded within the sides of the container only have support in the second provisional application No. 60/390,123, filed on June 21, 2002 which is more than 1 year after the patent issue date, April 3, 2001, of Hechler, IV (US 6,211,502). As a result, Hechler, IV qualifies as prior art against claims 15-30, 32, 34, 36, 38, 40 and 42.

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10. Claims 15, 18-30, 34, 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler, IV (US 6,211,502), in view of Oda et al (US 4,112,833).

Hechler, IV shows a microwave cooker for cooking bacon having a container 14 with a lid 12 and laterally projecting rim 22 and a rack 62 with spaced arms 66 for suspending strips of bacon spaced from the bottom 16 of the enclosed container 14. The container also includes a handle and the cover wall 24 of the lid includes a center bore 60 and cam locks 34 (see Figures 1-4 and col. 2, line 43 - col. 5, line 39). Hechler, IV fails to show the use of two containers with an inner container placed inside an outer container. Oda shows that it is well known in the art of microwave cookers to use two containers (shells 13 and 15) for cooking food like strips of bacons so that the grease can be collected in the outer container (see Figures 1 and 6, col. 2, line 56 - col. 4, line 45 and col. 5, lines 37-57). It would have been obvious to an ordinary skill in the art to modify Hechler, IV to use an inner container within the outer container to allow grease to be collected for a better cooking result. The exact shape of the cover and the handle would have been a matter of engineering design variations as L shaped handles and domed shaped covers for cookers are well known in the art.

11. Claims 16, 17, 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hechler, IV (US 6,211,502), in view of Oda et al (US 4,112,833) as applied to claims 15, 18-30, 34, 36 and 38 above, and further in view of Freedman et al (US 4,398,077) or Derby (US 4,495,392).

Hechler, IV combined with Oda shows a microwave cooking device for cooking bacon by suspending strips of bacon on rods or arms spaced from the bottom of an enclosed container

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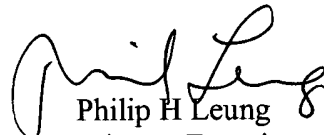
except for a microwave reflecting surface embedded within the sides of the container. Freedman et al or Derby shows that it is well known in the art of microwave cookers to use a microwave reflective layers on the inside surface of the cooking containers to control the amount of microwave heating on the food inside the container (see Freedman et al, Figures 1-5 and col. 3, lines 35-40 and col. 6, line 37 - col. 7, line 10 and Derby, Figure 1 and col. 2, lines 20-44). It would have been further obvious to an ordinary skill in the art to modify Hechler, IV combined with Oda to use a microwave reflecting layer on the inside surface of the container to control the amount of heating for a better cooking result in view of the teaching of Freedman et al or Derby.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fleck et al (US 5,552,585) and Kelly et al (US 5,714,740) are further cited to show microwave bacon cookers with various claimed features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
3-29-2005